

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DAMON LEE MINK,

Petitioner,

v.

CARRIE BRIDGES, Warden,

Respondent.

)
)
)
)
)
)
)
)
)
)

Case No. CIV-24-484-SLP

REPORT AND RECOMMENDATION

Petitioner, a prisoner appearing *pro se*, has filed a Petition for Writ of Habeas Corpus (ECF No. 1). United States District Judge Scott L. Palk has referred the matter to the undersigned magistrate judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). In accordance with that referral, a reviewed of the initial pleadings filed by Petitioner was conducted.

On June 14, 2024, by Order, the Court found Petitioner's initiating document to be deficient. The Court ordered Mr. Mink to file an amended petition, utilizing the Court's approved form. Petitioner's deadline to comply with the Court's Order was July 1, 2024. Petitioner was provided the necessary form for compliance. *See* ECF No. 5 and Staff notes dated 06/14/2024. Petitioner failed to comply.

The Court then filed an Order *sua sponte* extending the deadline allowing Petitioner until July 31, 2024, to file a proper 2254 petition utilizing the Court's approved form or show good cause why he has failed to comply with this Court's Orders. Petitioner was warned that absent compliance or a showing of good cause, the undersigned would recommend that this matter be dismissed without prejudice and without further order.

See ECF No. 6 and Staff notes dated 07/17/2024. Petitioner has again failed to comply.

A review of the court file indicates that as of this date, the Petitioner has failed to comply, cure the deficiencies, show good cause for his failure to do so, or request an extension of time to comply with the Court's order. In fact, Petitioner has not responded to the Court's orders in any way. Further, there is no indication from the docket that Petitioner did not receive the Court's previous Order which was mailed to Petitioner's address of record. *See id* and LCvR 5.4.(a).

The undersigned finds that Petitioner's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

RECOMMENDATION

Based on the foregoing findings, it is recommended that this action be **DISMISSED without prejudice** for Petitioner's failure to comply with this Court's orders. Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **August 26, 2024**, in accordance with 28 U.S.C. § 636 and Federal Rules of Civil Procedure 72. Petitioner is further advised that any failure to make timely objection to this Report and Recommendation waives the right

to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation terminates the referral to the undersigned magistrate judge in the captioned matter.

ENTERED on August 7, 2024.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE